

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1614

Introduced by Assembly Member Stone

February 6, 2014

An act to amend Section 123302 of the Health and Safety Code, and to amend Section 10072 of, and to add Section 10072.3 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL’S DIGEST

AB 1614, as amended, Stone. Electronic benefits transfer cards.

(1) Existing law provides for financial and food assistance benefits to needy Californians including, among other programs, the California Work Opportunity and Responsibility to Kids (CalWORKs) program and CalFresh, under which each county provides for financial and food assistance benefits to qualified individuals who meet specified eligibility criteria.

Existing law, administered by the State Department of Social Services, provides for the establishment of a statewide electronic benefits transfer (EBT) system for the purpose of providing those financial and food assistance benefits. Existing law authorizes a county to deliver CalFresh benefits and, upon election by the county, CalWORKs benefits through the use of an EBT system. Existing law requires, among other things, that the system have a 24-hour per day toll-free telephone hotline for the reporting of lost or stolen cards that will provide recipients with

information on how to have the card and personal identification card number replaced.

This bill would require the 24-hour toll-free telephone hotline to provide recipients, at no additional cost, the above-described information and to allow an authorized representative or head of household to access or request the transaction history detail, as specified. This bill would require the system to have an Internet Web site that will provide the same information and allow an authorized representative or head of household to view or request the transaction history detail.

The bill would require a county human services agency to make available to an authorized representative or head of household all electronic benefit transaction history details that are available to the county human services agency within 10 business days after a request has been received.

This bill would also require that the EBT system be designed to inform recipients when the system does not function or is expected not to function for more than a one-hour period between 6:00 a.m. and midnight during any 24-hour period.

(2) Existing law, except as specified, authorizes a recipient to be charged a fee, not to exceed the amount allowable by applicable state and federal law and customarily charged to other customers, for cash withdrawal transactions that exceed 4 per month.

This bill would require the EBT system to be designed to ensure that recipients of benefits under the CalWORKs program have access to using or withdrawing benefits with minimal fees or charges, including an opportunity to access benefits with no fee or charges. This bill would also create the Electronic Benefits Transfer System Consumer Protection, Financial Empowerment, and Cash Access Fund for the receipt of moneys from federal, state, and private funds. The bill would allocate moneys in this fund, upon appropriation by the Legislature, to the department for specified purposes.

(3) Existing law requires that EBT system consumers be informed regarding how to use the EBT card and how to protect the card from misuse.

This bill would also require a consumer to be informed of where they can use their EBT cards to withdraw benefits without incurring a fee, charge, or surcharge. This bill would also require the county to *use information provided by the department to inform an applicant for recipients of benefits under the CalWORKs program CalWORKs, County Relief, General Relief, and General Assistance programs of,*

among other things, the methods of electronic delivery of benefits available and any applicable fees, charges, or surcharges associated with each method of electronic delivery. ~~the EBT system. The bill would also require a county to inform recipients of benefits under the CalWORKs program of additional options to which they are entitled regarding the receipt of benefits.~~

(4) *The bill would require the department to implement these provisions by all-county letters or similar instructions no later than April 1, 2015, and until regulations are adopted on or before October 1, 2016.*

This bill would also make a conforming change.

By increasing the duties of counties in administering public social services programs, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 123302 of the Health and Safety Code
2 is amended to read:
3 123302. (a) (1) Notwithstanding any other law, the department
4 may design, implement, and fund an electronic benefits transfer
5 (EBT) system for the California Special Supplemental Food
6 Program for Women, Infants, and Children. Sections 10066, 10067,
7 and 10068 of, and subdivision (l) of Section 10072 of, the Welfare
8 and Institutions Code, shall apply to the administration of this
9 section.
10 (2) The department shall not implement any EBT system
11 authorized by this section until the department completes a
12 feasibility study, and funding for the system is provided in the
13 annual Budget Act.

(b) The department shall seek the advice of the Electronic Benefits Transfer Committee, created by Section 10067 of the Welfare and Institutions Code, in implementing this section, and shall obtain the approval of the United States Department of Agriculture, which is the federal governing agency, prior to the establishment of any EBT system.

(c) The department shall develop a plan to determine the feasibility of implementing an EBT system for the California Special Supplemental Food Program for Women, Infants, and Children by January 1, 2003, and shall report its findings to the Legislature by July 1, 2003.

SEC. 2. Section 10072 of the Welfare and Institutions Code is amended to read:

10072. The electronic benefits transfer system required by this chapter shall be designed to do, but not be limited to, all of the following:

(a) To the extent permitted by federal law and the rules of the program providing the benefits, recipients who are required to receive their benefits using an electronic benefits transfer system shall be permitted to gain access to the benefits in any part of the state where electronic benefits transfers are accepted. All electronic benefits transfer systems in this state shall be designed to allow recipients to gain access to their benefits by using every other electronic benefits transfer system.

(b) To the maximum extent feasible, electronic benefits transfer systems shall be designed to be compatible with the electronic benefits transfer systems in other states.

(c) All reasonable measures shall be taken in order to ensure that recipients have access to electronically issued benefits through systems such as automated teller machines, point-of-sale devices, or other devices that accept electronic benefits transfer transactions. Benefits provided under Chapter 2 (commencing with Section 11200) of Part 3 shall be staggered over a period of three calendar days, unless a county requests a waiver from the department and the waiver is approved, or in cases of hardship pursuant to subdivision ~~(e)~~ (p).

(d) The system shall provide for reasonable access to benefits to recipients who demonstrate an inability to use an electronic benefits transfer card or other aspect of the system because of disability, language, lack of access, or other barrier. These

1 alternative methods shall conform to the requirements of the
2 Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.),
3 including reasonable accommodations for recipients who, because
4 of physical or mental disabilities, are unable to operate or otherwise
5 make effective use of the electronic benefits transfer system.

6 (e) The system shall permit a recipient the option to choose a
7 personal identification number, also known as a “PIN” number,
8 to assist the recipient to remember his or her number in order to
9 allow access to benefits. Whenever an institution, authorized
10 representative, or other third party not part of the recipient
11 household or assistance unit has been issued an electronic benefits
12 transfer card, either in lieu of, or in addition to, the recipient, the
13 third party shall have a separate card and personal identification
14 number. At the option of the recipient, he or she may designate
15 whether restrictions apply to the third party’s access to the
16 recipient’s benefits. At the option of the recipient head of
17 household or assistance unit, the county shall provide one electronic
18 benefits transfer card to each adult member to enable them to
19 access benefits.

20 (f) The system shall have a 24-hour per day toll-free telephone
21 hotline for the reporting of lost or stolen cards that will provide
22 recipients, at no additional cost to the recipient, with information
23 on how to have the card and personal identification number
24 replaced, and that will allow an authorized representative or head
25 of household to access, over the telephone, the transaction history
26 detail for at least the last 10 transactions and to request that the
27 transaction history detail for at least the past two months be sent
28 by mail.

29 (g) The system shall have an Internet Web site that will provide
30 recipients, at no additional cost to the recipient, with information
31 on how to have the card and personal identification number
32 replaced, and that will allow an authorized representative or head
33 of household to view the transaction history detail for at least the
34 last 10 transactions and to request that the transaction history detail
35 for at least the past two months be sent by mail.

36 (h) In addition to the ability to receive transaction history detail
37 pursuant to subdivisions (f) and (g), a county human services
38 agency shall make available to an authorized representative or
39 head of household, at no additional cost to the authorized
40 representative or head of household, all electronic benefit

1 transaction history details that are available to the county human
2 services agency within 10 business days after a request has been
3 received by the agency.

4 (i) (1) A recipient shall not incur any loss of electronic benefits
5 after reporting that his or her electronic benefits transfer card or
6 personal identification number has been lost or stolen. The system
7 shall provide for the prompt replacement of lost or stolen electronic
8 benefits transfer cards and personal identification numbers.
9 Electronic benefits for which the case was determined eligible and
10 that were not withdrawn by transactions using an authorized
11 personal identification number for the account shall also be
12 promptly replaced.

13 (2) A recipient shall not incur any loss of cash benefits that are
14 taken by an unauthorized withdrawal, removal, or use of benefits
15 that does not occur by the use of a physical EBT card issued to the
16 recipient or authorized third party to directly access the benefits.
17 Benefits taken as described in this paragraph shall be promptly
18 replaced in accordance with the protocol established by the
19 department pursuant to paragraph (3).

20 (3) The State Department of Social Services shall establish a
21 protocol for recipients to report electronic theft of cash benefits
22 that minimizes the burden on recipients, ensures prompt
23 replacement of benefits in order to minimize the harm to recipients,
24 and ensures program integrity. This protocol may include the
25 automatic replacement of benefits without the need for recipient
26 reporting and verification.

27 (j) Electronic benefits transfer system consumers shall be
28 informed on how to use electronic benefits transfer cards, how to
29 protect their cards from misuse, and where consumers can use their
30 cards to withdraw benefits without incurring a fee, charge, or
31 surcharge.

32 (k) The electronic benefits transfer system shall be designed to
33 inform recipients when the electronic benefits transfer system does
34 not function or is expected not to function for more than a one-hour
35 period between 6 a.m. and midnight during any 24-hour period.
36 This information shall be made available in the recipient's preferred
37 language if the electronic benefits transfer system vendor contract
38 provides for services in that language.

39 (l) Procedures shall be developed for error resolution.

1 (m) No fee shall be charged by the state, a county, or an
2 electronic benefits processor certified by the state to retailers
3 participating in the electronic benefits transfer system.

4 (n) Except for CalFresh transactions, a recipient may be charged
5 a fee, not to exceed the amount allowed by applicable state and
6 federal law and customarily charged to other customers, for cash
7 withdrawal transactions that exceed four per month.

8 (o) The electronic benefits transfer system shall be designed to
9 ensure that recipients of benefits under Chapter 2 (commencing
10 with Section 11200) of Part 3 have access to using or withdrawing
11 benefits with minimal fees or charges, including an opportunity
12 to access benefits with no fee or charges.

13 (p) A county shall exempt an individual from the three-day
14 staggering requirement under subdivision (c) on a case-by-case
15 basis for hardship. Hardship includes, but is not limited to, the
16 incurrence of late charges on an individual's housing payments.

17 (q) A county shall ~~inform an applicant for use information~~
18 ~~provided by the department to inform recipients of~~ benefits under
19 Chapter 2 (commencing with Section 11200) of Part 3 *and Chapter*
20 *1 (commencing with Section 17000) of Part 5* of all of the
21 following:

22 (1) The methods of electronic delivery of benefits available,
23 including distribution of benefits through the electronic benefits
24 transfer system or direct deposit pursuant to Section ~~11006.2, the~~
25 ~~applicable fees, charges, or surcharges associated with each method~~
26 ~~of electronic delivery, consumer and privacy protections,~~
27 ~~protections from garnishment, and liability for theft. 11006.2.~~

28 (2) *Applicable fees and charges, including surcharges, consumer*
29 *and privacy protections, and liability for theft associated with the*
30 *electronic benefit transfer system.*

31 (3) *How to avoid fees and charges, including opting for delivery*
32 *of benefits by direct deposit and using the electronic benefits*
33 *transfer card solely at surcharge free locations.*

34 (4) *Where to withdraw benefits without a surcharge when using*
35 *the electronic benefit transfer system.*

36 (r) A county shall inform a recipient of benefits under Chapter
37 2 (commencing with Section 11200) of Part 3 of all of the
38 following:

39 (2)

1 (1) That a recipient may authorize any available method of
2 electronic delivery of benefits and instructions regarding how the
3 recipient may select or change his or her preferred method of
4 electronic delivery of benefits and that the recipient shall be given
5 the opportunity to select the method prior to the first payment.

6 ~~(3)~~

7 (2) That a recipient may be entitled to an alternative method of
8 delivery if the recipient demonstrates an inability to use an
9 electronic benefits transfer card or other aspect of the system
10 because of disability, language, lack of access, or other barrier
11 pursuant to subdivision (d) and instructions regarding how to
12 determine whether the recipient qualifies for an ~~alterative~~
13 *alternative* method of delivery.

14 ~~(4)~~

15 (3) That a recipient may be entitled to an exemption from the
16 three-day staggering requirement under subdivision (c) on a
17 case-by-case basis for hardship pursuant to subdivision (o) and
18 instructions regarding how to determine whether the recipient
19 qualifies for the exemption.

20 SEC. 3. Section 10072.3 is added to the Welfare and
21 Institutions Code, to read:

22 10072.3. (a) There is hereby created in the State Treasury the
23 Electronic Benefits Transfer System Consumer Protection,
24 Financial Empowerment, and Cash Access Fund. The fund may
25 consist of federal, state, and private funds.

26 (b) Notwithstanding any other law, moneys in the fund, upon
27 appropriation by the Legislature, shall be allocated to the
28 department for the purpose of ensuring that recipients of benefits
29 under Chapter 2 (commencing with Section 11200) of Part 3 are
30 educated about their consumer rights and financial management
31 tools and services, and how to access their benefits with minimal
32 fees or charges, including an opportunity to access benefits with
33 no fee or charges.

34 (c) Moneys in the fund may be used by the department or
35 allocated to county human services agencies or other public entities,
36 as determined by the department, in consultation with county
37 human services agencies and advocates for low-income consumers.

38 (d) Activities funded by the fund that meet the goals of the
39 CalWORKs program, particularly by helping parents successfully
40 prepare for employment, shall be applied to the federal work

1 participation hours required by Section 11322.8 if the department
2 receives a waiver of compliance with Section 602 of Title 42 of
3 the United States Code from the United States Department of
4 Health and Human Services or otherwise determines that activities
5 meet the requirements set forth under federal law without a waiver.

6 *SEC. 4. Notwithstanding the rulemaking provisions of the*
7 *Administrative Procedure Act (Chapter 3.5 (commencing with*
8 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
9 *Code), the department shall implement this act by all-county letters*
10 *or similar instructions no later than April 1, 2015, and until*
11 *regulations are developed. The department shall adopt regulations*
12 *implementing this act on or before October 1, 2016.*

13 ~~SEC. 4.~~

14 *SEC. 5.* If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.